IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION

UNITED STATES OF AMERICA, and The STATE OF ILLINOIS, and The STATE OF OHIO, Plaintiffs, v. GATEWAY ENERGY & COKE COMPANY, LLC, and HAVERHILL COKE COMPANY, LLC, and SUNCOKE ENERGY, INC., Defendants.	Civil Action No. 13-616-DRH-SCW

NOTICE OF LODGING OF SECOND AMENDMENT TO CONSENT DECREE

The United States, on behalf of the U.S. Environmental Protection Agency; the State of Illinois ("Illinois"), on behalf of the Illinois Environmental Protection Agency; and the State of Ohio ("Ohio"), on behalf of the Ohio Environmental Protection Agency (collectively the "Plaintiffs"), filed a complaint and contemporaneously lodged a proposed Consent Decree in this action between the United States, Ohio, Illinois, and Defendants Gateway Energy & Coke Company, LLC, Haverhill Coke Company, LLC, and SunCoke Energy, Inc. ("Defendants") regarding alleged Clean Air Act violations at two Midwestern heat recovery coking facilities, one in Franklin Furnace, Ohio ("Haverhill Facility") and one in Granite City, Illinois ("Gateway

Facility"), on June 26, 2013. The Court approved and entered the Consent Decree between the Plaintiffs and the Defendants (together the "Parties") on November 10, 2014. The Consent Decree, *inter alia*, requires Defendants to install and operate redundant heat recovery steam generators ("HRSGs") at the Gateway and Haverhill Facilities to capture coke oven gas emissions, and to comply with more stringent interim and final bypass venting emissions limits for particulate matter ("PM") and sulfur dioxide ("SO2"). On June 5, 2015, the Parties notified the Court that they had agreed to a non-material modification to the Consent Decree that did not require Court approval ("First Amendment"), which modified various details of one flue gas flow rate study ("flow study") and adjusted the schedule for that and another flow study to account for the fact that Defendants were ahead of schedule in implementing certain injunctive relief measures or to coordinate with other planned maintenance activities.

The United States now lodges a Second Amendment to the Consent Decree ("Second Amendment"). The Consent Decree allowed Defendants 720 hours of "tie-in" time to complete installation of the HRSGs. Defendants have represented that installation and operation of the Redundant HRSGs have exacerbated corrosion-related issues at the spray dryer absorbers ("SDAs"); therefore, Defendants need to replate the SDAs to upgrade their metallurgy and to make them more corrosion-resistant, as well as assist in effective operation of the SDAs. To that end, the Second Amendment would allow Defendants to use tie-in hours to address the corrosion at the SDAs (the "SDA Replating Project"), while at the same time requiring Defendants to mitigate the excess emissions associated with the SDA Replating Project.

As to mitigation, the Second Amendment requires Defendants to: (1) meet lower bypass venting emissions limits relating to SO_2 at both the Gateway and Haverhill Facilities than were required by the Consent Decree, and seek to incorporate such lower limits into construction

permit(s) and Title V operating permits; and (2) continue to operate the flue gas desulfurization units at the two facilities to over-control SO_2, PM, lead, and, as to the Haverhill Facility, hydrochloric acid emissions from the main stacks by, among other things, injecting excess lime slurry into the SDAs. The proposed Second Amendment would also streamline reporting obligations under the Consent Decree, and add reporting requirements relating to mitigation of excess emissions resulting from the SDA Replating Project.

Section XVI (Modification), Paragraph 127, of the Consent Decree provides that the Consent Decree may be modified only by a subsequent written agreement signed by all the Parties and, where the modification would constitute a material change to the Decree, approval by the Court. The Parties agree that the Second Amendment constitutes a material change to the Consent Decree and will require Court approval.

Pursuant to U.S. Department of Justice policy, the United States will publish notice of the lodging of the proposed Second Amendment in the Federal Register to commence a thirty (30)-day public comment period. The Court should not sign the proposed Second Amendment until the public has had an opportunity to comment and the United States has addressed those comments, if any. The United States may withhold its consent to the proposed Second Amendment if the comments disclose facts or considerations which indicate that the proposed Second Amendment is improper, inappropriate, inadequate, or not in the public interest. At the conclusion of the public comment period, the United States will: (1) file with the Court any written comments received pertaining to the proposed Second Amendment; and (2) either notify

the Court of its withdrawal of the proposed Second Amendment, or respond to comments received and request this Court to approve and enter the proposed Second Amendment.

FOR THE UNITED STATES:

JEFFREY H. WOOD
Acting Assistant Attorney General
Environment & Natural Resources Division
United States Department of Justice

s/ Catherine Banerjee Rojko
CATHERINE BANERJEE ROJKO
Senior Counsel
Environmental Enforcement Section
Environment & Natural Resources Division
United States Department of Justice
P.O. Box 7611, Ben Franklin Station
Washington, D.C. 20044-7611
Phone: (202) 514-5315
Fax: (202) 616-6584
Email: Cathy.Rojko@usdoj.gov

DONALD BOYCE
United States Attorney

NATHAN D. STUMP
Assistant United States Attorney
United States Attorney's Office
Nine Executive Drive
Fairview Heights, IL 62208-1344
Phone: (618) 628-3700
Fax: (618) 628-3730
Email: Nathan.Stump@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2018, 2018, a copy of the foregoing Notice of Lodging of Second Amendment to Consent Decree, was filed electronically, and notice of the filing will be sent by operation of the Court's website.

s/ Catherine Banerjee Rojko
Catherine Banerjee Rojko